

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 16-cr-20576

v.

HON. STEPHEN J. MURPHY

RANDY NIBUNGCO MONTANTE,

Defendant.

**Stipulation Seeking Entry of Order for Continuance of Trial Date and
Finding of Excludable Delay and Proposed Order**

Through their respective counsel, the parties stipulate and agree to the adjournment of the trial date, from October 20, 2016 until January 23, 2017, and the final pretrial conference hearing to _____, at 11:00 a.m. The parties agree and stipulate that additional time will be necessary to continue to explore the possibility of a negotiated resolution of the charges and prepare for trial. The parties agree that plea negotiations are "other proceedings concerning the defendant" within the meaning of 18 U.S.C. § 3161(h)(1), *see United States v. Dunbar*, 357 F.3d 582, 593 (6th Cir. 2004); *United States v. Bowers*, 834 F.2d 607, 609-10 (6th Cir. 1987) (per curiam), and that, therefore, this time should be

excluded in calculating the time within which the defendant must be brought to trial under the Speedy Trial Act, 18 U.S.C. § 3161(c)(1).

Pursuant to 18 U.S.C. § 3161(h)(7)(A), the parties stipulate that the extended time period shall constitute excludable delay and that the ends of justice served by this delay outweigh the best interests of the defendant and the public in a speedy trial. Defendants also waive their right to a speedy trial under the Interstate Agreement on Detainers and agree that the continuance requested is reasonable and necessary.

The parties request that the court make a specific finding that the ends of justice served by such a continuance outweigh the interest of the public and the Defendants in a speedy trial because failure to grant such a continuance would result in a miscarriage of justice.

IT IS SO STIPULATED.

Respectfully submitted,

BARBARA L. McQUADE
United States Attorney

s/ Margaret M. Smith
Deputy Chief, General Crimes Unit
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
Phone: (313) 226-9135
e-mail: margaret.smith@usdoj.gov

s/ Sanford Schulman (with consent)
Sanford Schulman
Counsel for Randy Montante
500 Griswold Street, Ste. 2340
Detroit, Michigan 48226
(313) 963-4740
saschulman@comcast.net

Dated: October 4, 2016

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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UNITED STATES OF AMERICA,

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Defendant.

/

Order Adjourning Trial Date and Finding Excludable Delay

This matter having come before the Court at a hearing, and upon the stipulation of the parties, the Court finds that the period from October 20, 2016, until January 24, 2017, shall be excluded in calculating the time within which the defendant has a right to a speedy and public trial pursuant to the Speedy Trial Act, 18 U.S.C. § 3161(h). The Court further finds that such a delay is necessary to permit the parties to continue to explore the possibility of a negotiated resolution of the charges, which is considered any proceeding concerning the defendants pursuant to 18 U.S.C. §§ 3161(h)(1) and (7).

FINAL PRETRIAL CONF./PLEA CUT-OFF: 1/4/2017, 2:00 P.M.

TRIAL DATE: 1/24/2017, 9:00 A.M.

IT IS ORDERED that pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, and in consideration of the factors listed in sections 3161(h)(1) and 3161(h)(7), the ends of justice are best served by granting a continuance in this case, and these ends outweigh the interest of the public and the defendant in a speedy and public trial and that any delay occasioned by this adjournment shall be deemed excludable under the Speedy Trial Act.

SO ORDERED.

S/Stephen J. Murphy, III
Stephen J. Murphy, III
United States District Judge

Dated: October 18, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 18, 2016, by electronic and/or ordinary mail.

S/Carol Cohron
Case Manager